



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Joseph Horwedel

SUBJECT: EVERGREEN•EAST HILLS
VISION STRATEGY (EEHVS)

DATE: May 4, 2007

Approved

Date

5/4/07

COUNCIL DISTRICT: 5, 7, & 8

SNI AREA: West Evergreen,
K.O.N.A., &
East Valley/680

RECOMMENDATION

Per the City Council direction at the April 30, 2007 study session staff recommends that the City Council:

- (a) Adoption of a Funding Agreement between the City of San Jose and the property owners of the Four Opportunity Sites with the following recommended staff amendments:
 - (1) A total monetary contribution of approximately \$200M for the construction of transportation investments and community amenities;
 - (2) An alternate phasing and payment schedule requiring the owner to pay their monetary contribution based on unit allocations and within six months of zoning or planning approval;
 - (3) Retention of 120 acres of Campus Industrial;
- (b) Adoption of an update to the Evergreen Development Policy (EDP), which would allow additional development of up to 4,230 residential units on the Four Opportunity Site, 500 residential pool units, up to 395,000 square feet of commercial/retail development, preserve 120 acres of land designated as Campus Industrial, construction of three elementary schools, in addition to other public/quasi-public and open space uses;
- (c) Tentatively adopt the proposed General Plan Land Use/Transportation and Text amendments based on the development capacities adopted in the proposed EDP (GP05-08-01a-f and GPT05-08-01);

- (d) Adoption of a resolution to approve the designation of the intersection of Capitol Expressway/Capitol Avenue to the "Protected Intersection" list under the City's Transportation Impact Policy 5-3; and
- (e) Acceptance of the traffic impact fee study and approve an ordinance establishing a traffic impact fee as part of the Evergreen Area Development Policy; and
- (f) Adoption a resolution with a Statement of Overriding Considerations identifying the balance of public benefit and the significant unavoidable impacts in the EIR as required by CEQA.

OUTCOME

The outcome of the Evergreen*East Hills Vision Strategy is to consider an update to the Evergreen Development Policy and associated items which would achieve the 10 Vision and Outcome Statements established by the City Council in August 2005 and listed below:

- Use Guiding Principles from the initial Task Force
- Maintain "delicate balance"
- Create a financially feasible plan
- Explore affordable housing opportunities
- Create rental and homeownership housing
- Explore opportunities to increase workplace density
- Capture retail and commercial opportunities
- Work with the affected school districts
- Establish a 10-year supply of additional residential allocations
- Protect natural resources

EXECUTIVE SUMMARY

This report analyzes the consistency of the proposed Funding Agreement by the developers of the Four Opportunity Sites with the City Council's direction from the April 30th Council study session and analyzes the City Council alternative policy option which would only approve an update to the EDP without amending the General Plan Land Use/Transportation Diagram for the Four Opportunity Sites. It contains staffs recommended amendments to the Funding Agreement proposed by the property owners.

BACKGROUND

On December 12, 2006, the City Council considered the EEHVS and voted (10-0-0) to uphold the Planning Commission's certification of the Final Environmental Impact Report and to defer the remainder of the Evergreen policy and land use discussion to 2007. The deferral allowed for the

completion of a Fiscal Impact Study to analyze the impact on City's ability to fund and manage ongoing services and maintenance resulting from the proposed project, and a Financial Analysis that evaluated the developers' voluntary offer to pay for a package of transportation and community facilities. Staff was also directed to complete a negotiated, legally binding agreement for the developers' voluntary contributions.

City staff presented the working draft findings of both the fiscal and the financial studies in addition to the six policy options listed below at the April 30, 2007 City Council study session.

- *Policy Option #1* – Developers' proposal with a reduced number of residential units totaling 4,168 units, up to 395,000 square feet of commercial/ professional office uses, and up to 500 background pool units;
- *Policy Option #2* – Primary Task Force proposal to allow up to 3,600 residential units, up to 300,000 square feet of commercial/professional office uses, and up to 400 background/pool units;
- *Policy Option #3* – Retain 120 acres of land designated as Campus Industrial with the Mixed Industrial Overlay and allow for the development of up to 4,300 residential units on the four opportunity sites, up to 595,000 square feet of commercial/office space, and 500 pool units;
- *Policy Option #4* – Retain all 320 acres of land designated as Campus Industrial and allow for the development of up to 3,025 residential units on the four opportunity sites, up to 595,000 square feet of commercial/office space, and up to 1,775 pool units;
- *Policy Option #5* – Defer consideration of updating the EDP to the comprehensive General Plan Update process; or
- *Policy Option #6* – Approve an update to the EDP allowing additional residential development without amending the General Plan Land Use/Transportation Diagram for the Four Opportunity Sites.

The purpose of the study session was to prepare the Council for its upcoming consideration of the Evergreen*East Hills Vision Strategy (EEHVS), scheduled for May 15, 2007. Specifically, the Study Session provided an opportunity for the Council to become familiar with the elements of the proposed EEHVS. The Council provide direction necessary to complete a funding agreement with the property owners which reflected direction previously provided at the December 12, 2006 hearing for the EEHVS and listed in the table further in this report.

ANALYSIS

The analysis reviews the consistency of the proposed Funding Agreement by the developers of the Four Opportunity Sites with the City Council's direction from the April 30th Council study session and analyzes the option to only approve an update to the EDP without amending the General Plan Land Use/Transportation Diagram for the Four Opportunity Sites. The fundamental questions for the City Council to consider include the following:

- Is the quality of life being improved for the residents in the greater Evergreen area?
- Is there a balance of the “pains and gains” for the three stakeholders (developer, community/schools, and the City)?
- Is there a balance of the “three legged stool” (amenities, transportation investments, development)?
- Is there reasonableness of the developer contribution?
- Should development in the greater Evergreen area be considered in the context of a General Plan update?

FUNDING AGREEMENT CONSISTENCY WITH COUNCIL DIRECTION

As referenced above, the City Council provided direction necessary to complete a funding agreement with the property owners. Attachment 1, entitled, “Funding Agreement Direction from the April 30, 2007 Study Session,” lists the items directed by the City Council to incorporate into a funding agreement and an updated EDP prior to the May 15, 2007 hearing date.

Staff received a revised proposal for a Funding Agreement with the City of San Jose on May 3, 2007 (Attachment 2), which proposes for a reduced monetary contribution to the City totaling \$165 million and a reduced development reflected in table below:

Opportunity Site	Residential Units (up to)	Commercial/ Professional Office (SQFT)	Industrial Retention	Land Dedication (for public uses)
Pleasant Hills Golf Course	665	--	--	1-acre Fire Station 6-acre School Site
Campus Industrial	1,190	--	105-acres	12-acre School Site
Arcadia	1,875	200,000	--	5-acre School/ Community Center Site
Evergreen Valley College	500	195,000	--	2-acre Library Site
Residential Pool	500	--	--	--
TOTAL	4,730	395,000	105-acres	26-acres

The proposed Funding Agreement generally meets the criteria set forth by the City Council listed in the above table; however, staff is recommending an alternate payment phasing schedule for a total contribution of \$200 million and retention of 120 acres of Campus Industrial would provide greater certainty for funding the required base transportation investments and community amenities (see page 31 of the Draft EDP in Attachment 3). This is a working draft in that the property owners are expected to make additional changes and the City is reviewing concurrently for legal adequacy and consistency with the City Council direction.

The proposed payment and phasing schedule in the EDP, would require each developer to pay their monetary contribution based on unit allocations and within six months of zoning or planning permit approval. The requirement to provide sufficient funding in the early phases to assure the

construction of the transportation investments in conjunction with and in some cases ahead of the build-out of the Four Opportunity Sites is needed to fulfill the Environmental Impact Report mitigation measures. However, with fewer dollars, this means that the construction of amenities would occur in later phases of the development leaving a question of consistency with the City Council direction for certain amenities to occur early (i.e., Little League Fields and Arcadia Community Center).

Staff also has concerns regarding meeting the needs of school facilities in the Evergreen area. The Evergreen Elementary School District stated that they will still have a funding gap of roughly \$27 million to construct the necessary elementary schools on both the Arcadia and the Campus Industrial sites. This gap would exist despite any reduced land cost provided by the property owners for the purchase of land and any State matching funds that may be available to them. The District has stated that the property owners/developers have indicated that the funding gap of \$27 million could be provided from the monetary contribution to the City for community amenities.

This funding solution would directly impact the City's ability to construct the priority Tier 1 amenity list as those amenities would cost approximately \$72.5 million (2006 dollars). This is due to the fact that the Base Transportation Improvements are estimated at \$112 million, thereby already leaving a gap of approximately \$10 million to fund the priority Tier 1 amenities based on the developers' \$167 million.

POLICY OPTION TO UPDATE THE EDP ONLY

Additionally, the City Council directed staff to consider approving an update to the EDP that would be structured to allow a pool supply of residential units (up to 5,700 units) in the Evergreen area, without approving any General Plan Amendments at this time.

This option assumes no voluntary payment by the developers of the Four Opportunity Sites. Therefore, the City would only be able to collect typical fees associated with private development within a Development Policy Area. This includes PDO/PIO fees, an Evergreen traffic impact fee, standard school impact fees, and other fees which have a direct nexus to the development proposed. Transportation and Community amenities may be implemented at some point; however, the timing and funding of the identified amenities would be unknown. This uncertainty is not covered in the certified EIR.

In other words, the implementation of the required base transportation investments required by the Final EEHVS Environmental Impact Report would not occur. As a result, this policy option does not have environmental clearance for the City Council to consider. Should the City Council consider directing staff to continue pursuing this proposed option the following scope of work would need to be completed:

- Identify an appropriate number of additional residential units, industrial development, and commercial/retail square which could be developed within the EDP area;

- Prepare a Supplemental Environmental Impact Report (EIR) which analyzes impacts related to transportation, air quality, noise, and does not assume significant transportation investments are made by private parties;
- Prepare a subsequent transportation nexus study, to determine an appropriate transportation impact fee, to pay for required mitigation found to be necessary in the subsequent EIR; and
- Appropriate sufficient funding (approximately \$100K – 150K) in the City’s budget to fund the necessary staff, consultants, and the preparation of reports/analyses necessary for consideration of this policy option.

STAFF RECOMMENDATION

Staff finds that the proposed development stipulated in the attached Funding Agreement generally meets the City Council direction given at the April 30th study session and would be doable with the following modifications:

- Include a funding package of approximately \$200 million for the construction of transportation investments and community amenities as a requirement of the Four Opportunity Site entitlements;
- Adopt staff’s alternate payment and development phasing schedule; and
- Preserve a total of 120 acres of land designated as Campus Industrial.

The above proposed Funding Agreement modifications are based on staff’s determination that additional financial contributions could be made by the developers of the Four Opportunity Sites as indicated in the Keyser Marston financial analysis. The inclusion of these modifications would ensure a level of contribution that is reasonable to achieve true “*balancing of the equation*”, as it relates to the quality of life for the existing and future residence in this planning area.

Additionally, the proposed funding of \$200 million would maximize the funding available to deliver the community amenities which are the cornerstone of the EEHVS effort and ensure the community amenities are provided for the community as early in the process as possible.

Staff has attached copies of memorandums prepared by the Department of Transportation regarding the proposed recommendations to:

1. Adopt a resolution to approve the designation of the intersection of Capitol Expressway/Capitol Avenue to the “Protected Intersection” list under the City’s Transportation Impact Policy 5-3; and
2. Accept the traffic impact fee study and approve an ordinance establishing a traffic impact fee as part of the Evergreen Area Development Policy

POLICY ALTERNATIVES

The policy options outlined in the City Council memorandum dated, April 20th, for the Evergreen East Hills Vision Strategy Study, are still available policy alternatives for the City Council to consider as part of possible actions to take regarding the proposed update to the EDP.

PUBLIC OUTREACH/INTEREST

- ☐ **Criteria 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- ☐ **Criteria 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- ☐ **Criteria 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

Extensive outreach program occurred throughout the EEHVS process. A variety of opinions have been expressed throughout the process, including the most recent EEHVS City Council Study Session held on April 30, 2007. The views expressed span the policy options discussed at the April 30th Study Session. Additionally, staff mailed approximately 16,000 public hearing notices, sent an additional notice to an extensive EEHVS email distribution list, and noticed the public hearing in the San Jose Mercury Newspaper.

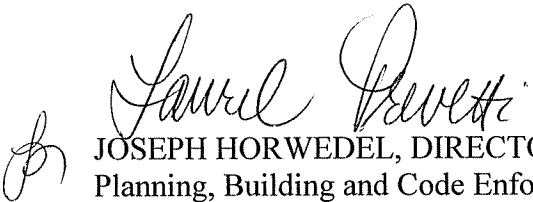
This memorandum and other materials associated with the proposed public hearing will be posted on the City's website to facilitate the public's ability to watch, attend and/or address the Council at the public hearing. Additionally, 2,600 petitions opposed to a new grocery store on the Evergreen Valley Community College site is available for review at the City Clerk's Office (see sample attached).

COORDINATION

This memorandum was coordinated with the City Attorney's Office. The EEHVS involved many City departments, including Transportation; Public Works; Parks, Recreation, and Neighborhood Services; Housing; Redevelopment Agency; City Attorney's Office; Office of Economic Development; and City Manager's Office.

CEQA

On November 10, 2006, the Planning Commission Certified the Final EEHVS Environmental Impact Report (EIR), which was later appealed to the City Council. The City Council subsequently upheld the Planning Commission's Certification of the Final EEHVS EIR on December 12, 2006.


JOSEPH HORWEDEL, DIRECTOR
Planning, Building and Code Enforcement

For questions please contact Laurel Prevetti, Assistant Director, at (408) 535-7901.

Attachments:

1. Direction from the City Council (4-30-07)
2. EEHVS Funding Agreement (REV. May 2007)
3. Revised Draft EDP (REV. May 2007)
4. Protected Intersection Memorandum
5. Evergreen Traffic Impact Fee Memorandum
6. "Save Our Store" Petition